RECENT IMPORTANT DECISIONS

AGENCY—AUTHORITY TO APPOINT SUB-AGENTS.—J purchased a note and mortgage of F and left the same in his hands for collection. F resided in New Hampshire, the mortgagor in Nebraska. F had negotiated the original loan through one B of Lincoln, Nebraska, and had received several payments through him after the assignment. B finally collected the last installment of the note and failed to turn over the proceeds. J, the holder, transferred the note and mortgage after maturity to the plaintiff, who brings suit to foreclose. *Held*, that the plaintiff must fail because F, from necessity, had implied authority to appoint B as a sub-agent to receive payment. *Breck* v. *Meeker*, (1903), — Neb. —, 93 N. W. Rep. 993.

The rule is too well settled for dispute that, as an exception to the general rule that agents have no power to appoint sub-agents, (*Ruthven* v. *American Fire Ins. Co.* (1894), 92 Ia. 316, 60 N. W. 663; *Connor* v. *Parker*, 114 Mass. 331;) authority so to act may be implied from necessity arising out of the circumstances of the parties; *Appleton Bank* v. *McGilvray*, 4 Gray (Mass.) 518, 64 Am. Dec. 92; *Planters' etc. Nat'l Bank* v. *Wilmington First Nat'l Bank*, 75 N. C. 534.

AGENCY—RIGHT TO COMPENSATION.—*Held*, that the fraud of the agent committed in the performance of his duty deprives him of his right to compensation. *Jeffries* v. *Robbins* (1903), — Kans. —, 71 Pac. Rep. 852.

See I MICHIGAN LAW REVIEW, pp. 505 and 671, where matter is discussed.

BANKRUPTCY—DISCHARGE.—The bankruptcy act of 1898, sec. 17, provides that a discharge shall release the bankrupt from all provable debts except . . . (4) where created by his fraud, embezzlement, misappropriation, or defalcation while acting as an officer or in a fiduciary capacity. Where a debt was created by fraud of the bankrupt, *Held*, he was liable although he was not acting as an officer or in a fiduciary capacity. *Crawford* v. *Burke* (1903), — Ill. —, 66 N E. Rep. 833.

This decision is based on the peculiar construction of the fourth paragraph of section 17. The exact question was whether or not the clause "while acting as an officer or in a fiduciary capacity" referred to each of the words "fraud, embezzlement, misappropriation or defalcation" or whether it attached only to the last named. The court held that the clause modified only the word "defalcation" and had no application to the words "fraud," "embezzlement," or "misappropriation." This important section has not yet been construed by the supreme court of the United States, but it has received judicial construction in other federal and some state courts. The principal case is the best one holding as it does. Other cases to the same effect are, *Frey* v. *Torrey*, 75 N. Y. Supp. 40, 8 Am. Bankr. Rep. 196; *In re Lieber*, 3 Am. Bankr. Rep. 217; *Bracken* v. *Milner*, 104 Fed. 522, 5 Am. Bankr. Rep. 23. The contrary construction is placed on the act in *In re Bullis*, 7 Am. Bankr. Rep. 238; *Morse* v. *Kaufman*, 4 Va. Sup. Ct. Rep. 172, 7 Am. Bankr. Rep. 549; *Gee* v. *Gee*, 84 Minn. 384, 7 Am. Bankr. Rep. 500; *In re Rhutassel*, 96 Fed. 597, 2 Am. Bankr. Rep. 697.

BANKRUPTCY—DISCHARGE—Section 17, subdivision 3, of the bankruptcy act of 1898 provides that a discharge in bankruptcy shall release the debtor from all his provable debts, except such as "have not been duly scheduled in time for proof and allowance, with name of the creditor, if known to the